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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/048,041

01/24/2002

Ernest Johann Fantner

AT000035

1139

7590 07/06/2007  
Corporate Patent Counsel  
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EXAMINER
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CARLSON, JEFFREY D

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/048,041	<b>Applicant(s)</b> FANTNER, ERNEST JOHANN	
	<b>Examiner</b> Jeffrey D. Carlson	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.
- Claims 6 and 15, the "and/or" renders the claim scope unclear.
- Claim 8, it is unclear whether applicant is positively requiring a step of sharing.
- Claim 20, there is no antecedent basis for the billboard.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**4. Claims 1, 4, 7, 10, 13, 16, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lutterbach et al (US5510828).**

Regarding claims 1, 7, 10, 16, Lutterbach et al teaches an interactive billboard whereby advertising is presented on the billboard and user responses to the advertising can be collected by input devices [fig 5, col 4 lines 46-50 and 65-67]. This is taken to provide assignment of electronic input means to ad surface and receiving of visitor information thereby as triggered by the visitors. Lutterbach et al teaches that the responses received can be stored by the marketing system 56 to provide feedback regarding the programming or advertising presented [col 4 lines 60-63] and further a determination of advertising effectiveness can be determined. This generation of advertising effectiveness is also taken to inherently include output of the generated effectiveness in order to communicate the effectiveness to the advertising entities so that the effectiveness can be made known.

Regarding claims 4, 13, the result is taken to be representative of the number of visitors in a certain time periods – they more crowded the advertising area, the more responses received.

Regarding claim 19, the billboards of Lutterbach et al are capable of being affixed with exchangeably affixed advertising posters. Lutterbach et al also teaches the known use of such posters [col 1 lines 14-22].

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 2, 3, 5, 6, 8, 9, 11, 12, 14, 15, 17, 18, 20 are rejected under 35**

**U.S.C. 103(a) as being unpatentable over Lutterbach et al.**

Regarding claims 2, 3, 11, 12, Official Notice is taken that it is well known to survey consumers with speech sensors (microphones) as well as touch screen input. It would have been obvious for one of ordinary skill in the art at the time of the invention to have provided the consumer inputs as such types for their ease of interaction.

Regarding claims 5, 6, 14, 15, Official Notice is taken that consumer surveys typically include collection of demographic information such as country of origin, gender and age of the consumers. It would have been obvious for one of ordinary skill in the art at the time of the invention to have collected such information so that the advertising effectiveness could be measured across various/typical consumer segments.

Regarding claims 8, 17, Lutterbach et al envisions placement of such billboards around town and it would have been obvious for one of ordinary skill in the art at the time of the invention to have centrally collected the advertising effectiveness data from each of Lutterbach et al's billboards to get an overall effectiveness measure of advertising.

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Regarding claims 9, 18, it would have been obvious for one of ordinary skill in the art at the time of the invention to have displayed modified advertising where previous advertising for a product was deemed to be ineffective. This would enable the advertiser to improve and learn from his mistakes in advertising.

Regarding claim 20, Lutterbach et al shows that the billboards can be arranged in a cylindrical-like manner [fig 3] and it would have been obvious for one of ordinary skill in the art at the time of the invention to have provided billboards in any particular shape/arrangement including exactly cylindrical. Lutterbach et al teaches that the user devices can be hardwired to the billboards [col 4 lines 48-49]. Further, it would have been obvious for one of ordinary skill in the art at the time of the invention to have provided user input devices integral with any of the smaller billboards.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-6716. The examiner can normally be reached on Mon-Fri 8a-5:30p, (work from home on Thursdays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jeffrey D. Carlson  
Primary Examiner  
Art Unit 3622

jdc

<b>Notice of References Cited</b>	Application/Control No. 10/048,041	Applicant(s)/Patent Under Reexamination FANTNER, ERNEST JOHANN	
	Examiner Jeffrey D. Carlson	Art Unit 3622	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,510,828	04-1996	Lutterbach et al.	725/138
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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